

a temperature from 50 to 65 °C, and which has activity to promote expression of a structural gene located downstream of said nucleic acid.

D¹
D² 4. (Twice Amended) The nucleic acid according to claim 1, comprising a polynucleotide having the sequence of SEQ ID NO: 1.

5. (Amended) A nucleic acid comprising a plurality of nucleic acids according to claim 1 or 4 that are ligated.

6. (Amended) A recombinant vector comprising at least one nucleic acid of claim 1 and a structural gene located downstream of said nucleic acid whose expression is promoted by said nucleic acid.

D³ 9. (Twice Amended) The recombinant vector according to claim 6, wherein said nucleic acid comprises the nucleotide sequence of SEQ ID NO: 1.

10. (Twice Amended) The recombinant vector according to claim 6 or 9, wherein said nucleic acid is inserted in an intron sequence located upstream of said structural gene.

13. (Twice Amended) A method for promoting expression of a structural gene, comprising inserting, at a location upstream of said structural gene, a nucleic acid no more than 120 nucleotides in length comprising the nucleotide sequence shown in SEQ ID NO: 1 that hybridizes to a polynucleotide having a sequence that is the complement of SEQ ID NO: 3 under conditions equivalent to 5X Denhardt's solution, 6 X SSC, 0.5% to 0.1% SDS, at a temperature from 50 to 65 °C, and which has activity to promote expression of a structural gene located downstream of said nucleic acid.

16. (Twice Amended) The method according to claim 13, wherein said nucleic acid comprises a polynucleotide having the nucleotide sequence shown in SEQ ID NO: 1.

17. (Twice Amended) The method according to claim 13 or 16, wherein said nucleic acid is inserted in an intron sequence located upstream of said structural gene.

D₆ 21. (Amended) The method according to claim 13, in which a plurality of said nucleic acids is inserted upstream of said structural gene.

D₇ 23. (Amended) The method according to claim 16, in which a plurality of said nucleic acids is inserted upstream of said structural gene.

24. (Amended) The method according to claim 17, in which a plurality of said nucleic acids is inserted in said intron.

25. (Amended) The method according to claim 18, in which a plurality of said nucleic acids is inserted in said intron.

26. A plant, or progeny thereof, comprising the recombinant vector of claim 6.

27. (Amended) A plant, or progeny thereof, comprising at least one nucleic acid of claim 1 inserted into an intron of a structural gene.

Please add the following new claims:

78 --33. (New) An isolated nucleic acid no more than 120 nucleotides in length and comprising the nucleotide sequence shown in SEQ ID NO: 1, that is at least 70% identical in sequence to SEQ ID NO: 3 and which has activity to promote expression of a structural gene located downstream of said nucleic acid.

34. (New) The isolated nucleic acid of claim 33 that is at least 85% identical in sequence to SEQ ID NO: 3.

35. (New) The isolated nucleic acid of claim 33 that is at least 95% identical in sequence to SEQ ID NO: 3.

36. (New) An isolated nucleic acid that comprises a plurality of polynucleotides having the sequence of SEQ ID NO: 1.

37. (New) A recombinant vector comprising at least one nucleic acid of claim 33 and a structural gene located downstream of said at least one nucleic acid whose expression is promoted by said nucleic acid.

38. (New) A recombinant vector comprising at least one nucleic acid of claim 36 and a structural gene located downstream of said nucleic acid whose expression is promoted by said nucleic acid.

18
concl
39. (New) A plant, or progeny thereof, comprising the recombinant vector of claim 37 or 38.

40. (New) A plant, or progeny thereof, comprising at least one nucleic acid of claim 33, 34 or 35 inserted into an intron of a structural gene.

41. (New) A method for promoting expression of a structural gene, comprising inserting, at a location upstream of said structural gene, an isolated nucleic acid no more than 120 nucleotides in length and comprising the nucleotide sequence shown in SEQ ID NO: 1, that is at least 70% identical in sequence to SEQ ID NO: 3 and which has activity to promote expression of a structural gene located downstream from said nucleic acid.--
